

# The Real Property Law Section

<http://www.calbar.ca.gov/rpsection>

STATE BAR OF CALIFORNIA

## WEBSITE

The Section's website is new and improved. Check it out: [www.calbar.ca.gov/rpsection](http://www.calbar.ca.gov/rpsection)

## MARK YOUR CALENDARS!

The State Bar's Real Property Law Section will hold its **ANNUAL RETREAT** from **Friday, April 23, 2004 to Sunday, April 25, 2004** at the newly-refurbished *La Costa Resort* in Carlsbad. We have lined up a terrific group of speakers and panels, and there will be plenty of networking opportunities. See the RPLS website for further details.

The California Law Revision Commission will hold its regular meeting on **April 15, 2004** in Sacramento. The tentative agenda includes discussion of "State Oversight of Common Interest Developments." For details, go to <http://www.clrc.ca.gov/pub/Misc/Agenda.pdf>.

It is not too early to plan for the State Bar Annual Meeting in Monterey, **October 7-10, 2004**; those desirable Monterey hotel reservations go fast!

## SECTION LEADERSHIP IN GOVERNMENT SECTOR

Executive Committee member **Chris Leong** is Senior Counsel at the State of California's Department of Real Estate, and has been with the Department since 1990. He previously was an associate with Baker & McKenzie, Hong Kong. His bar activities include service as 1996 President, Southern California Chinese Lawyers Association; George McBurney Business Litigation Inn of Court (founding member); State Bar of California: Commission on Judicial Nominees, Client Security Fund Commission, Real Property Law Section Executive Committee; Los Angeles County Bar Association Real Property Section Executive Committee member and Los Angeles County Bar Association Trustee. Chris has contributed so much of his time to supporting legal associations because of his early experiences which taught him that "lawyers play an important role in society because we help people resolve their own disputes so they don't have to take the law into their own hands." His father taught him the value of a professional license, and he helps maintain the integrity of all California lawyers' licenses to this day through his work at the DRE.

He received his B.A. from USC and his J.D. from Whittier Law School. He is admitted to the California, Nevada and Hawaii State Bars. Chris and his wife are expecting to be blessed with their first child, a girl, in May.



## PROPOSED CIVIL JURY INSTRUCTIONS

The Judicial Council has issued proposed civil jury instructions for public comment. The deadline to submit comments is Wednesday, March 10, 2004. The Invitation to Comment can be found at

<http://www.courtinfo.ca.gov/invitationstocomment/bproposals.htm>, and the proposed jury instructions at <http://www.courtinfo.ca.gov/invitationstocomment/documents/sp04-02.pdf>.

## NCCUSL PROGRESS

Last edition, we advised you the Section is sponsoring Norma Williams as a participant in the National Conference of Commissioners on Uniform State Laws' ("NCCUSL") Drafting Committee's work involving Mortgage Access to Rents on Income Producing Land. Progress is being made and the next meeting will be April 16-18. Watch for Ms. Williams' report in the next edition of the Journal, summarizing the current draft and soliciting comments. For the full text of the proposed Act, and reporters' notes, go to

[http://www.law.upenn.edu/bll/ulc/ulc\\_frame.htm](http://www.law.upenn.edu/bll/ulc/ulc_frame.htm).

## NEW LAW REQUIRES OWNERS TO MORE CLOSELY MONITOR CONTRACTOR COMPLIANCE WITH LABOR LAWS

Starting in January 2004, a person who hires a contractor for labor or services in the construction, farm labor, garment, janitorial or security guard industries may be liable for damages to the employees of the contractor if the owner knows or should know that the contract does not include sufficient funds for the contractor to comply with all applicable federal, state and local laws governing the contracted work. Labor Code § 2810.

The injured contractor's employees can sue the owner for actual damages (with a minimum for \$250 for the first violation and \$1,000 for each additional violation) plus attorneys' fees.

An owner can create a statutory presumption in its favor that it has complied with the new law by including a shopping list of new provisions in the owner's agreement with its contractor.

If there are any amendments to the initial agreement which materially affect any of the above items, the changes must be shown in the amendment. Also, if any of the above information is not fixed or known at the time the contract is signed, then the owner and contractor must estimate and include the final number when it can be ascertained. Owners are required to keep a copy of the agreement on file for 4 years.

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The Real Property Law Section Newsletter

March 2004

There are exceptions for work performed under a collective bargaining agreement and improvement of owner occupied residential property.

Potential hot areas for use of the law against owners: (i) if contractor does not have workers' compensation insurance and its employees are injured; and (ii) if the contractor does not pay correct wages or overtime to all workers.

Suggestions: (i) revise all forms of agreements to include the information required by the new law; (ii) work with financially capable contractors who can stand behind their legal obligations under applicable laws; (iii) become more knowledgeable about the legal duties and responsibilities of your contractors.

(Thank you to RPLS Executive Committee member Gordon Eng for this summary. Gordon can be reached at: Law Offices of Gordon K. Eng, 19191 S. Vermont Avenue, Suite 420, Torrance, CA 90502, (310) 527-7781.)

#### JOIN A SUBSECTION (OR TWO) (OR ALL 16!)

- Central Coast Roundtable
- Natural Resources
- Commercial Leasing
- Real Estate Finance
- Common Interest Development
- Real Estate Litigation
- Construction and Commerce/Industrial Development
- Real Estate Sales and Brokerage
- Environmental Law
- Residential Landlord – Tenant
- Fresno/Central Valley Roundtable
- Title Insurance
- Inverse Condemnation/Eminent Domain
- Sacramento/Central Valley Roundtable
- Law Professors Roundtable
- Zoning and Land Use

**Remember:** If you miss a CLE session offered by the State Bar, audiotapes are available. The Versa-Tape Company has a large library of audio cassettes of educational programs sponsored by the Real Property Law Section, the State Bar of California and all of the State Bar Sections. For information, call (626) 791-8907, (800) 727-8883 or visit [versatape.com](http://versatape.com). To contact the Real Property Law Section call (415) 538-2564 or e-mail [Pam.Wilson@calbar.ca.gov](mailto:Pam.Wilson@calbar.ca.gov).

#### NEWSLETTER CONTRIBUTIONS

To submit materials to be included in the next edition of the Real Property Section Newsletter, please send them to **Jean Bertrand** at [jlbertrand@mjlplp.com](mailto:jlbertrand@mjlplp.com) or (415) 901-8701 (fax). Items can include announcements of upcoming programs, reports of prior programs, pro bono success stories, and the like.